IN THE HIGH COURT OF JUDICATURE AT BOMBAY:

NAGPUR BENCH: NAGPUR

CRIMINAL APPLICATION NO.2313 OF 2006

Prabhakar Paikaji Vairale

versus

State of Maharashtra

000

Mr. Dhote, Advocate for applicant

Mr. Thakre A. P. P. for respondent

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CORAM: S. R. DONGAONKAR, J.

DATE: 28.9.2006

ORDER

Heard learned counsel for the parties.

2] By this application under section 439 of Criminal Procedure Code applicant is seeking bail.

3] The accused is charge-sheeted and prosecuted for the offence under section 302 read with section 34 of Indian Penal Code.

4] Learned counsel for the applicant submits that though there is evidence of dying declaration however, that does not inspire confidence.

5] I have perused the dying declaration of the deceased Sangita. It specifically mentions that the rock oil was powered by the mother in law and father in law had set her on fire.

Father in law is the present applicant. The said statement i.e. dying declaration appears to be recorded by the Executive Magistrate, Morshi and the Medical Officer has certified that the said Sangita was fully conscious while making dying declaration. Ex-facie it does not appear to be dis-believable.

6] The rest of the contentions raised by the learned counsel for the applicant have to be considered at the time of trial. As such prima facie it does not seem that applicant was not responsible for the aforesaid offence. In these circumstances accused can not be made entitled for bail.

7] However, while rejecting this application as it is stated that the learned Trial Judge has fixed the matter on 5.10.2006, he is directed to hear the matter expeditiously and decide the same as early as possible.

8] Liberty to apply for bail if trial is not concluded within a period of three months. Application stands rejected with the above observations.

JUDGE

smp.